

REMARKS

The Official Action of October 19, 2004 has been carefully considered and reconsideration of the application as amended is respectfully requested.

Claim 1 has been amended by the incorporation therein of the recitations previously in claims 14 and 15, and the latter claims have been canceled. The “means” recited in claims 2-11 have been re-labeled as “wetting means” to avoid confusion with the orientation means now recited in claim 1. New claim 36 has been added more completely to define the subject matter which Applicants regard as their invention. The new claim draws clear support from the application as filed at, for example, page 4, first three paragraphs and Fig. 1.

The claims have also been amended with the incorporation of other “means for” recitations in accordance with the provisions of 35 USC 112, sixth paragraph, which provide that an applicant may express an element in a claim as a means for performing a specified function without the recital of structure in support thereof, and such claim is construed to cover the corresponding structure described in the specification and equivalents thereof. It is respectfully submitted that these “means for” recitations remove the bases for the Examiner’s rejection under 35 USC 112, second paragraph, for alleged omission of essential structural cooperative relationship since the “means for” recitations themselves provide for the requisite structure and structural relationships. With specific respect to the objections pertaining to the alleged lack of interrelationship between the evaporation device, the porous fabric, the evaporation surface and the evaporation

elements, the rejection is respectfully traversed. The evaporation device is the article being claimed and the claims define it as comprising the recited elements, including the evaporation element(s). The claims also recite that the evaporation element has an evaporation surface and that the surface comprises a porous fabric. Accordingly, it is respectfully believed that the claims interrelate all of these elements.

The recitation in claim 9 to which the Examiner objected (“anemometer type apparatus”) has also been rewritten in means plus function language in accordance with the provisions of 35 USC 112, sixth paragraph. Support for this recitation appears in the specification as filed at, for example, page 6, first full paragraph, and Fig. 4 of the drawing. This is respectfully believed to remove the basis for the Section 112, second paragraph of this claim.

The Examiner has also rejected the claims under 35 USC 112, second paragraph for allegedly being unduly broad so as to read on naturally occurring events. Applicant traverses this rejection and respectfully calls the Examiner’s attention to the provisions of MPEP Section 2173.04, which makes clear that “undue breadth” is not a proper basis for rejection under 35 USC 112, second paragraph (see, also, MPEP Section 706.03 which shows that naturally occurring articles are treated under the provisions of 35 USC 101). In any event, Applicants respectfully note that claim 1 as amended recites an evaporation device. . .having at least one evaporation surface and orientation means. . . .”. Accordingly, the claims as amended cannot possibly be considered to read on a naturally occurring article.

With respect to the Examiner's rejection of claims 32-35 which recite a "kit", Applicants respectfully note that the kit of claim 32 comprises a positioning means whereas the evaporation device of claim 1 does not. As shown by the specification at page 4, lines 17-24, the positioning means is separate from the evaporation device. Accordingly, it is respectfully submitted that the subject matter defined in claims 32-35 is accurately defined as a "kit".

In view of the above, the claims as amended are respectfully believed to be free of the rejections noted at paragraph 1 of the Official Action, and otherwise satisfy the dictates of 35 USC 112, second paragraph.

The claims have been rejected under 35 USC 102(b) or (e) as allegedly being anticipated by GB 2330779, Takayasu, Kemper or Assaf. The claims have also been rejected under 35 USC 103(a) as allegedly being unpatentable over Kemper in combination with Assaf. Applicants respectfully traverse these rejections.

The claims as amended all require that the claimed evaporation device comprises orientation means for orienting the evaporation surface in a direction at least approximately parallel to the wind direction. Pursuant to the provisions of MPEP Section 2184(II), unless a prior art element performs the identical function specified in the claim, it cannot be considered an equivalent of the claimed orientation means. It is respectfully submitted that none of the cited references teaches the claimed orientation means.

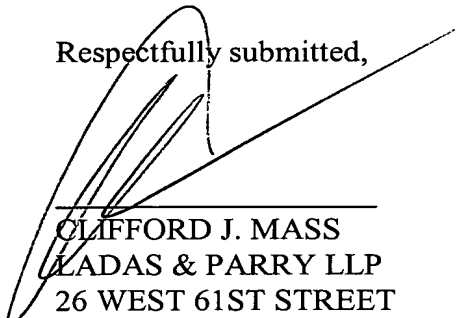
In this respect, Applicants respectfully note that, besides lacking the claimed

means, Assaf goes to great lengths to teach that the evaporation surfaces of the invention described therein are advantageously placed perpendicular to the direction of the prevailing winds. Accordingly, the Assaf reference, either alone or in combination with Kemper, cannot be considered to anticipate or to render obvious the invention as defined by the amended claims. It is respectfully noted in this respect that the Kemper reference was **not** applied to claims 14 or 15, whose recitations have now been incorporated into the main claim.

With specific respect to GB 2330779 and Takayasu, Applicants respectfully note that these references also do not show or suggest an evaporation device as claimed, which is “**free of any external enclosure** surrounding the evaporation element and preventing its exposure to said outdoor environment”. The British reference teaches an enclosed evaporator, and it is clear from the ‘779 description that the enclosure is a necessary component thereof (see, for example, page 3, lines 4-9, and page 7, lines 1-14). Accordingly, it is respectfully submitted that the British patent teaches away from the claimed invention. Similarly, the Takayasu reference consistently refers to an enclosure formed by a roof and sidewalls (see, for example, column 8, lines 60-63), and also teaches away from the claimed invention for this reason.

In view of the above, it is respectfully submitted that all rejections and objections have been overcome and that the application is now in allowable form. An early notice of allowance is earnestly solicited and is believed to be fully warranted.

Respectfully submitted,



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